

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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JOSE I. SALDANA,

Plaintiff,

- V -

MICHAEL J. ASTRUE, COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

07 Civ. 5893 (DLC)

ORDER

DENISE COTE, District Judge:

On December 18, 2007, Defendant Michael J. Astrue, Commissioner of Social Security, filed a motion to dismiss or, in the alternative, for summary judgment. Plaintiff Jose I. Saldana submitted no opposition, nor did he request an extension. In connection with his motion, the Commissioner made several representations that, given the sparse record before the Court, were difficult to understand. Accordingly, it is hereby

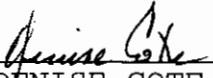
ORDERED that the Commissioner clarify, by February 22, 2008, the following:

1. The basis for the administrative law judge's ruling that Saldana had abandoned his claim.
2. The apparent inconsistency between (1) the Commissioner's representation that, once court action is taken on this matter, Saldana's case will be returned to an ALJ for a hearing and decision on the merits, and (2) the statement made in the May 3, 2007 letter from the Appeals Council to Saldana informing him that his request for review had been denied and that this was "the final decision of the Commissioner of Social Security in your case."

IT IS FURTHER ORDERED that, should Saldana wish to make any submission concerning these two issues, he must do so by February 22, 2008.

SO ORDERED:

Dated: New York, New York
February 11, 2008



DENISE COTE
United States District Judge

COPIES SENT TO:

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